

Message Text

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APPROVED BY EB/CSB/BP:HARVEY J. WINTER
EA/K:FHMISEK
JUSTICE:CFBANNAN
L/EB:JCROOK

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TO AMEMBASSY SEOUL

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E.O. 11652: N/A

TAGS:ETRD, KS, US

SUBJECT: ANTITRUST: KOREAN HAIR GOODS ASSOCIATION OF
AMERICA (KWA)

REFS: A) 1974 STATE 140655; B) 1975 STATE 169116

1. FINAL JUDGEMENT WAS RENDERED FEBRUARY 24 IN US
DISTRICT COURT FOR SOUTHERN DISTRICT OF NEW YORK ON
KOREAN HAIR GOODS ASSOCIATION OF AMERICA, INC. (KWA)
ANTITRUST VIOLATION CASE. HISTORY OF LEGAL ACTION GOES
BACK TO 1974 WHEN DEPARTMENT OF JUSTICE CONDUCTED A GRAND
JURY INVESTIGATION INTO POSSIBLE VIOLATIONS OF ARTICLE I
OF SHERMAN ACT INVOLVING ALLEGED CONCERTED REFUSALS TO
DEAL BY CERTAIN PERSONS ENGAGED IN U.S. INTERSTATE AND
FOREIGN COMMERCE IN HAIR GOODS (SEE REFTELS). INVOLVED
WERE KOREAN HAIR GOODS ASSOCIATION OF AMERICA (KWA), A
GROUP OF IMPORTERS AND WHOLESALERS IN US, AND THE KOREAN
HAIR GOODS EXPORT ASSOCIATION (KEA), A MANUFACTURERS'
GROUP LOCATED IN KOREA.

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2. IN ITS FINAL JUDGEMENT THE COURT ENJOINED AND RESTRAINED KWA, THE DEFENDANT, FROM: "(A) ENTERING INTO, ADHERING TO, MAINTAINING, FURTHERING OR ENFORCING, DIRECTLY OR INDIRECTLY, ANY AGREEMENT, UNDERSTANDING,

PLAN, PROGRAM, RULE OR REGULATION TO RAISE; FIX, STABILIZE, MAINTAIN, SUGGEST OR INFLUENCE PRICES, DISCOUNTS, MARK-UPS OR OTHER TERMS OR CONDITIONS FOR THE SALE OF WIGS; (B) PREVENTING, RESTRICTING, LIMITING, OR ATTEMPTING TO PREVENT, RESTRICT, OR LIMIT ANY PERSON OR MEMBER FROM OBTAINING WIGS FOR SALE OR FROM SELLING WIGS TO ANY PERSON OR CLASS OF PERSONS; (C) PUBLISHING OR DISTRIBUTING ANY BULLETIN OR DISSEMINATING TO ITS MEMBERS OR TO ANY PERSON ANY INFORMATION RELATING TO ANY AGREEMENT, UNDERSTANDING, PLAN, PROGRAM, REGULATION OR RULE TO RAISE, FIX, STABILIZE, MAINTAIN, SUGGEST OR INFLUENCE PRICES, DISCOUNTS, MARK-UPS OR OTHER TERMS OR CONDITIONS OF SALE FOR WIGS, OR TO PREVENT, RESTRICT OR LIMIT THE PERSONS OR CLASS OF PERSONS TO WHOM WIGS MAY BE SOLD."

3. FURTHER, KWA IS ENJOINED AND RESTRAINED FROM FURNISHING OR COMMUNICATING DIRECTLY OR INDIRECTLY TO KEA ANY LIST INDICATING THE MEMBERS OF KWA, AND FROM FURNISHING OR COMMUNICATING TO ANY PERSON ANY INFORMATION CONCERNING THE PRICING OF WIGS OR SALES PRACTICES OF ANY OTHER PERSON BUT MAY, UPON WRITTEN REQUEST OF A MEMBER, SOLICIT AND COLLECT INFORMATION RELATING TO THE CREDIT STANDING OF A UNITED STATES CUSTOMER OR PROPOSED CUSTOMER OF SUCH REQUESTING MEMBER, PROVIDED SUCH INFORMATION IS DISSEMINATED WITH AN ACCOMPANYING STATEMENT THAT THE MATERIAL IS FURNISHED FOR CREDIT INFORMATION PURPOSES ONLY AND IT IS SOLELY IN THE DISCRETION OF THE REQUESTING MEMBER WHETHER TO DEAL WITH THE PERSON WITH RESPECT TO WHOM THE INFORMATION IS FURNISHED.

4. KWA IS ORDERED TO CONFORM ITS RULES, REGULATIONS, BY-LAWS, PRACTICES AND POLICIES TO THE TERMS OF THE FINAL JUDGEMENT WITHIN SIXTY DAYS. IT MUST ALSO SEND TO THE USG A TRUE COPY OF ITS BY-LAWS, RULES AND REGULATIONS AS AMENDED WITHIN NINETY DAYS OF DATE OF ENTRY OF FINAL UNCLASSIFIED

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JUDGEMENT.

5. KWA IS ALSO ORDERED TO ADMIT TO MEMBERSHIP ANY APPLICANT WHO MEETS REASONABLE AND NONDISCRIMINATORY REQUIREMENTS WHICH ARE NOT INCONSISTENT WITH THE FINAL JUDGEMENT.

6. FURTHER KWA IS ORDERED TO MAINTAIN MINUTES OF EACH

MEETING CONCERNED WITH: (A) MEMBERS' COMPLAINTS OR COMMERCIAL DISPUTES; (B) MARKET CONDITIONS, DISTRIBUTION CHANNELS, ADVERTISING POLICIES AND SALES PRACTICES CONCERNING WIGS; (C) TRADE PRACTICES IN U.S. OR KOREA; (D) RELATIONS BETWEEN KOREAN AND U.S. WIG INDUSTRIES.

7. FOR THE PURPOSES OF SECURING COMPLIANCE WITH THIS FINAL JUDGEMENT ANY AUTHORIZED REPRESENTATIVE OF DEPARTMENT OF JUSTICE SHALL, UPON WRITTEN REQUEST OF THE ATTORNEY GENERAL OR OF THE ASSISTANT ATTORNEY GENERAL IN CHARGE OF THE ANTITRUST DIVISION, OR OF THE AUTHORIZED REPRESENTATIVES OF EITHER, AND ON REASONABLE NOTICE TO KWA, BE PERMITTED: (1) ACCESS TO ALL BOOKS, LEDGERS, ACCOUNTS, CORRESPONDENCE, MEMORANDA, AND OTHER RECORDS AND DOCUMENTS IN POSSESSION OR UNDER CONTROL OF KWA RELATING TO ANY MATTERS CONTAINED IN FINAL JUDGEMENTS; (2) TO INTERVIEW OFFICERS, EMPLOYEES AND AGENTS OF KWA. UPON WRITTEN REQUEST KWA SHALL SUBMIT SUCH REPORTS IN WRITING AS MAY BE REQUESTED.

8. EMBASSY MAY, AT ITS DISCRETION, INFORM APPROPRIATE ROKG AUTHORITIES OF THESE DEVELOPMENTS AS MATTER OF COURTESY AND REPORT ANY REACTIONS TO DEPARTMENT. KISSINGER

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